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SUBJECT: CHINA LABOR ISSUES OVERVIEW

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DISTRIBUTION.

1. (U) This message provides background to assist with the planning of Labor Secretary Chao's September 13 meetings with Chinese Minister of Labor and Social Security Tian Chengping. The cable includes a section on current political and economic context (paras 4-19), a review of developments in China's labor situation since Secretary Chao's 2004 visit (paras 20-44), and a brief biography of Minister Tian (paras. 45-47). Post is happy to provide one-page briefing summaries for easy reference.

2. (U) Tian's visit will offer an opportunity to discuss our productive bilateral cooperation on labor issues under three active USDOL programs in Labor Rule of Law, Coal Mine Safety, and HIV/AIDS Workplace Education. The U.S. is also providing assistance for the development of Corporate Social Responsibility programs as well as Labor Law education, through programs funded by the State Department's Bureau of Democracy, Rights and Labor. The State Department's Bureau of International Law Enforcement Affairs has also funded ILO work to assist China in preparing to ratify ILO Conventions 29 (Forced Labor) and 105 (Abolition of Forced Labor). In 2004, DOL and the Ministry of Labor and Social Security (MOLSS) signed four letters of understanding on cooperation on Wage and Working Hour Law Administration, Pension Programs, Workplace Safety and Health, and Mine Safety and Health, but no programs have been initiated yet. Tian may wish to discuss the possibility of increasing bilateral cooperation.

3. (SBU) The meeting with Tian will also provide an opportunity to encourage the Chinese Government to improve governance in the labor area. Although China is making progress in legislation and regulation, implementation is far from international standards. Numerous labor disputes that should be resolved through existing mechanisms end up festering because

these mechanisms are ineffective, time-consuming and expensive, or because local labor bureaus do not enforce the rules. In many cases, workers who attempt to resolve disputes through proper channels come to believe that extra-legal means (e.g., strikes, demonstrations) are the only way to get satisfaction. It is important to remind Tian that U.S. interest in labor cooperation includes human rights concerns, but extends beyond them; Congress and the general public take an active interest in our open market policies and look to us to demonstrate that our bilateral engagement is effective in enhancing workers rights. A more rational labor market with effective dispute resolution mechanisms in China will also help attract and keep high-quality U.S. investment.

THE POLITICAL AND ECONOMIC CONTEXT

View from Beijing

¶4. (SBU) The Chinese leadership views the outside world through the prism of China's own domestic challenges and developments and the leadership's determination to increase China's global influence. The leaders of a one-Party state faced with profound development and security challenges are focused on stability and on preventing any perceived challenges to the power and primacy of the Communist Party. The regime's success, and hence its legitimacy, depends in good part on its continuing to deliver breathtaking economic growth (approximately 9 percent per year for

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the past 27 years) and commensurate increases in living standards for over 1.3 billion Chinese people. Job creation is a paramount concern. To achieve the goal of continued rapid economic growth, the leadership believes it requires domestic stability and stable relations with the U.S. and neighboring countries. China's increasingly active diplomacy stems largely from these imperatives, from the conviction of Chinese leaders that a stable, peaceful international situation benefits China, and to a growing extent from China's global quest to secure resources. The Chinese realize that the relationship with the U.S. is of paramount importance to their continued economic growth, to global stability and security, and to China's ability to continue what some Chinese call its "peaceful rise."

President Hu consolidates power; Politicking; Taiwan; Military Build-up

¶5. (SBU) President Hu has consolidated his authority within China's cumbersome collective leadership structure, although maneuvering in the run-up to the fall 2007 Communist Party Congress is intensifying. Changes in personnel at lower levels of the Party and Government are preparing the way for leadership changes to be ushered in at the Congress and will likely preoccupy China's leadership over the coming year. Some Vice Premiers are nearing retirement age or facing grave illness and a number of Ministers and Provincial Governors may be moved up and/or to the center. Although President Hu has reiterated the need for China to continue reforms following heated debates on the issue, he has shown caution in areas that touch on domestic stability and has supported retrenchment in the areas of free speech and media. Internal discussions about China's place in the world show increasing signs of economic nationalism, with concern by some that Chinese companies face unfair competition. Hu appears to favor an incremental

approach to "reform" that would improve governance, reduce corruption, increase democracy within the Party and enhance Party legitimacy but not alter the Party's basic monopoly on power. Taiwan remains a top concern for Chinese officials. China appreciates U.S. statements on our one-China policy and our efforts to preserve the cross-Strait status quo. The U.S. and others are concerned over the unclear purpose of China's large increases in defense spending and the military buildup and modernization. We continue to seek to understand how China's buildup is consistent with its oft-stated assertions of a defensive military doctrine. The U.S. and China coordinate efforts on many issues, such as counterterrorism, the Six-Party Talks, unanimous UNSC resolutions on Iran and North Korea, and combating infectious diseases. We continue, however, to look to China to contribute more to resolving these issues.

Rapid Economic Growth and its Challenges

16. (SBU) China's economy continues to grow at a brisk pace. The Chinese official figure for the first half of 2006 was 10.9 percent, although some believe the true figure may have been even higher. The latest GDP figures indicate that China has now overtaken the UK and France to become the world's fourth largest economy (based on size of GDP). However, in per capita terms, China ranked one hundred tenth in the world in 2005 (IMF data). At the end of 2005, China revised its GDP upward by 16.8 percent. According to the revised statistics, the contribution from services now amounts to between 30 and 40 percent of China's

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overall GDP. Many Chinese economic policy officials are increasingly concerned about both the pace and composition of China's growth. The Central Government seeks to rein in what it perceives to be irrationally high growth in some provinces, yet local officials are often promoted for their ability to increase investment, GDP and jobs. Despite the Government's stated goal of promoting consumption-led growth, the economy of late has been increasingly driven by investment and net exports. Chinese officials feel the need to maintain high growth to create non-agricultural jobs for the large, globally uncompetitive and still poor rural sector. Slowing economic growth, or worse yet, a sudden contraction, could pose social stability challenges for the Chinese Government.

17. (SBU) China faces enormous long-term development challenges, including the need to invest more in public health, environmental protection and education, and securing adequate, reliable access to resources and energy. China's large current account surplus is due to an extraordinarily high savings rate of 51.8 percent (2005 gross national savings rate; EIU data), which exceeds an extraordinarily high investment rate of 44.5 percent (2005 gross investment as a share of GDP, EIU data). High household precautionary savings are necessary because Chinese lack both private and public insurance and social safety nets to manage rising health costs, finance education and provide for a secure retirement. Corporate savings have risen with profits, further pushing up the savings rate. Due to weak corporate governance, neither public nor private companies pay significant dividends. Developing the financial sector, social safety nets and corporate governance will all have a far bigger impact on China's trade surplus than exchange rate changes or reductions in trade barriers, but such structural changes will take time.

18. (SBU) Big threats loom, including widespread continuing drought and water shortages, air and water pollution and the new threat of avian influenza. For all its growth, the Chinese economy is also energy-inefficient. China's energy consumption per unit of gross domestic product is almost two and one-half times greater than the world average and energy intensity is still rising, a reflection of ongoing high rates of investment in fixed assets. In the early 1990s, China was still a net energy exporter, but early this decade, overtook Japan as the world's second largest importer of crude oil. Westinghouse, still with much U.S. content though now owned by Japan's Toshiba, is a finalist for new Chinese nuclear power plant contracts and approved for USG advocacy; those nuclear power plants are part of China's plans to diversify its energy supplies, which the U.S. supports.

19. (SBU) Political support for inefficient state-owned industries has led to overcapacity, falling prices, and profitability, and burgeoning bad debts that by some estimates could exceed half of China's annual gross domestic product. Overcapacity is particularly evident in such areas as steel, aluminum, cement, real estate and construction. Economic growth and its concomitant urbanization have lead to a growing gap in living standards between China's urbanites and rural residents. The transfer of population from rural to urban areas that accompany industrialization in all societies continues apace in China. Remaining price controls (including on energy,) administrative measures that interfere with market operations, Communist Party selection of banking leaders and government selection of preferred

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industries tend to perpetuate inefficient capital allocation in China.

China's Foreign Trade Performance

110. (SBU) China's foreign trade growth also continues to be impressive. Total trade for 2005 exceeded USD 1.4 trillion (USD 756 billion through the first half of 2006), with export growth for 2005 at 28.4 percent and import growth at 17.6 percent. The PRC's overall trade surplus was USD 102 billion in 2005 (USD 61.5 billion through the first half of 2006), over three times the surplus in 2004. The U.S. is China's largest export market, taking more than one-fifth of all Chinese exports. In 2005, China also attracted USD 60 billion in foreign direct investment (marginally down to USD 28.4 billion through the first half of 2006). Foreign invested enterprises (FIEs) have accounted for about half of China's exports in recent years, employ about 11 percent of China's urban workforce, and pay roughly 20 percent of total tax revenues. As a result of strong inward capital flows, China's foreign exchange reserves now exceed USD 940 billion, the largest total in the world, and are expected to exceed USD one trillion before year's end.

111. (SBU) U.S. exports to China grew for the sixth consecutive year, up 18.2 percent in 2005 after a 22 percent increase in 2004, a continuation of a trend that began with China's accession to the World Trade Organization in 2001. In the first quarter of 2006, U.S. export growth to China exceeded 29 percent. Despite this good news, PRC exports to the U.S. grew even faster. As a result, China's trade surplus with the U.S. rose from USD 162 billion in 2004 to over USD 201.7 billion in 2005. Many of the underlying reasons for this unprecedented surplus are structural, in the form of China's low wages and low overhead and capital

costs. Nonetheless, China too often uses industrial policy tools to promote and protect favored industries and sectors. Its ineffective enforcement of intellectual property rights is a major problem for American exporters.

Currency Issues

¶12. (SBU) China's currency regime poses increased risks to the Chinese and global economies. While China increased the value of the renminbi (RMB) last year by 2.1 percent, and has allowed it to rise by another 1.7 percent against the U.S. dollar through late August, it remains effectively pegged to the U.S. dollar. The peg is contributing to growing macroeconomic imbalances in the Chinese economy and is constraining the Central Bank's ability to maintain financial stability. To avoid the risk of repeating a cycle of credit-fueled boom-busts, China needs to tighten its monetary policy. But its inability to raise interest rates is constrained by the peg, because absent appreciation of the currency, higher interest rates would just induce more speculative inflows. Some Chinese officials are concerned about the potential adverse impact of exchange rate flexibility on the export sector, particularly about the vulnerability of low value added assembly operations that are most likely to transfer to Vietnam or other low wage countries, and which support hundreds of millions of migrant workers whose remittances help the rural economy. Fortunately, there appears to be increased understanding among the political elite of the linkage between China's peg, its large balance of payments surplus, and excessive credit and investment growth. In mid-August, the

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authorities allowed RMB volatility to increase notably. Most analysts expect the RMB's rate of appreciation to increase slightly.

Health and the Environment

¶13. (SBU) China's rapid economic growth is stretching its natural resources and increasing concerns about pollution and environmental damage. Water issues are a major concern for urban areas and on the farm, especially in northern China. Water shortages have been chronic in some parts of China due to long-term price controls that discourage conservation. Poor water quality exacerbates shortages and has become a hot political issue, especially since the major toxic spill in the Songhua River in northeastern China last winter. The Chinese Government values its partnerships with EPA, the Department of Energy and other U.S. agencies in addressing these issues. U.S. NGOs are assisting China in everything from working to protect biodiversity to developing better environmental laws and ensuring community participation.

¶14. (SBU) Public health is of increasing national concern, especially since the 2003 SARS epidemic. Beijing has taken more serious measures to control HIV/AIDS and is working harder to stem the spread of avian influenza. The U.S. and China are collaborating on a robust Emerging Infections program to combat disease, with both the National Institute of Health and the Centers for Disease Control active in China. The U.S. Department of Agriculture and USAID are also supporting bilateral animal health programs. However, China's reporting of animal outbreaks of avian influenza is not as strong as the reporting on the human health side, and we continue to urge greater

openness with both information and samples.

Intellectual Property Rights (IPR)

¶15. (SBU) China's poor record on protecting intellectual property rights has been one of the most pressing difficulties facing our relationship. From pirated CDs and DVDs to theft of entire product lines from unknowing American manufacturers, IPR problems in China harm U.S. companies around the world, and threaten China's ability to be seen as a responsible participant in the international trading system. While China has made significant and valuable progress in some areas related to IPR, the scope of the problem is increasing faster than Chinese enforcement efforts.

"National Economic Security" and Shifting Bureaucratic Strongholds

¶16. (SBU) Pursuant to the Eleventh Five-Year Plan (2006-2010), the Central Government announced a focus on rural development, addressing rising income inequality and moving China up the value chain. We are observing a shift in China's trade policy center of gravity from the Ministry of Commerce (MOFCOM) and WTO implementation issues towards the National Development and Reform Commission (NDRC) and implementation of more ambitious industrial policies. As NDRC fleshes out its policy mandate, we expect to see increased experimentation with policy measures that will test, and perhaps breach, WTO norms. Examples include the mandatory application of domestic standards (WAPI), rules designed to increase the percentage and technological sophistication of local content (autos), and support for development of

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advanced manufacturing and high technology programs.

¶17. (SBU) China's policy for these emerging industries appears to be to nurture them by carving out of market share via government procurement policy (software), restricted expansion of FIE market share growth in undefined "sensitive" sectors and may have particularly problematic results in services (insurance, banking, telecommunications and direct sales.) China erects technical and sanitary standards to delay the entrance of competing products (pharmaceuticals, medical devices and agricultural products).

Beijing Summer Olympics

¶18. (SBU) The Summer Olympics will take place in Beijing August 8-24, 2008. The city will also host the Paralympic Games that September. The Games will attract some 10,500 athletes, 180,000 accredited staff, 22,000 media and 230 VIPs, and perhaps up to 60 heads of state. Organizers indicate these will be the biggest, most expensive and most watched Olympic Games in history. Beijing will be the primary site with 285 of 302 total events; Qingdao in Shandong Province will host sailing events, and Hong Kong will host equestrian events. Preliminary Olympic Games soccer matches will be played in a number of other mainland cities. The Chinese Government will reportedly spend between USD 30 and 40 billion on the Games. The Beijing Organizing Committee for the Olympic Games (BOCOG) is the public coordinator for the Olympics, although the Communist Party remains the final Arbiter, as it is for all major policy questions.

¶19. (U) The venue centerpieces in Beijing will be the

91,000-seat Olympic Stadium, nicknamed the Bird's Nest, and the nearby Aquatic Center. The estimated cost of the complex is about USD 400 million. Beijing is in the process of major upgrades to its public transportation and highway systems. In addition, the U.S. Environmental Protection Agency and Department of Energy are cooperating with Chinese counterparts to improve the environment and energy efficiency in Beijing in connection with the Games.

CHINA LABOR DEVELOPMENTS SINCE 2004

Role of Ministry

¶20. (U) The Ministry of Labor and Social Security (MOLSS) is responsible for crafting policies to improve and implement China's labor laws and regulations, and various social welfare insurance programs, including pension, unemployment, workplace injury and maternity benefit insurance programs. Enforcement of the laws and regulations is the responsibility of provincial or sub-provincial labor bureaus. MOLSS has no formal authority over provincial bureaus, but the bureaus look to the Ministry for policy direction. MOLSS is not responsible for workplace safety and health issues. These fall under the jurisdiction of the cabinet-level State Administration for Work Safety (SAWS) and the State Administration for Coal Mine Safety (SACMS). Health insurance is under the jurisdiction of the Ministry of Health.

The Labor Market

¶21. (U) China's official figures show a labor force

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of approximately 750 million, including 200-250 million urban workers, 100-150 million migrant workers, and roughly 400 million farmers (many of whom engage in other occupations as well). While Chinese official statistics report unemployment of about 4.2 percent, this refers only to urban residents who have registered as unemployed. MOLSS surveys estimate a real unemployment rate closer to 7 or 8 percent, and anecdotal estimates in some areas are much higher. Rapid economic growth in and around China's cities continues to create jobs and attract labor from rural areas; unemployment, underemployment and rising expectations in rural areas is also driving labor migration. Urban workers who are registered urban residents earn an average of RMB 73.3 (USD 9) per day, and enjoy some social welfare benefits. Migrant workers earn about half as much, with no social welfare benefits, but this is still more than they would earn back in their villages.

¶22. (U) Official statistics indicate that on average, wages rose 14.9 percent in 2005. Some heavily industrialized areas of China, e.g., the Pearl River Delta, are beginning to experience shortages of unskilled labor and wage increases for both skilled and unskilled labor. These shortages may be partially the result of rural tax cuts and other Central Government policies meant to increase living standards in rural areas, which have reduced the push to migrate.

¶23. (U) Unemployment is currently significant for recent university graduates. China's rapid increase in post-secondary students since 1999 has produced a large pool of educated persons with high expectations. The public sector cannot absorb all of these

graduates, and private sector employers complain that the quality of graduates is too low. A recent survey suggests that only 10 percent of post-secondary graduates have the skills necessary to assume professional or management positions in the private sector.

The Social Safety Net

¶24. (U) The 1995 Labor Law shifted responsibility for pensions, health insurance, unemployment insurance, workplace injury insurance and maternity benefits from the old "work units" of the command economy to various levels of government. In the past two years, the Central Government has devoted much attention to reforming and improving the social welfare insurance, experimenting, in different locations, with a variety of models. So far, however, no comprehensive pension, health care, unemployment or workplace injury insurance system is in place. A December 2005 report by an investigative committee of the National People's Congress (the NPC is China's national legislature) observed that "coverage of the social welfare insurance system is too narrow, the levels of government responsible for maintaining insurance funds are too low, and there is a serious problem of arrears to insurance funds."

¶25. (U) PENSIONS: China modified its pension rules in January 2006. Current rules mandate a three-tiered system to be administered by local governments. The three tiers include a pay-as-you go "social pool" funded by employer contributions (20 percent of wages), personal accounts funded by mandated employee contributions deducted from wages (8 percent), and voluntary, employer-funded supplementary accounts. There are some provincial pilot programs which vary from the national standards. Pension accounts are

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managed by local governments. Participation (in the first two tiers) is mandatory, but non-compliance is widespread. The NPC noted that the bulk of participants in current pension programs were employees of China's remaining state-owned and cooperative enterprises. Private sector urban workers and migrant workers are largely uncovered. MOLSS reports that the pension system covered 178.8 million workers as of June 2006.

¶26. (U) Because the first tier of the pension system is a defined benefits program, mandated contributions are high (20 percent of wages), and the system is still deeply in deficit. The People's Bank of China estimated that the system was RMB 6 trillion (USD 760 billion) as of the end of 2004. In many cases, local governments raid personal accounts of contributing workers to fund their current liabilities to retirees. The Deputy Minister of MOLSS reportedly said that the total amount owed to "empty" individual accounts at the end of 2004 was RMB 740 billion (USD 94 billion) and growing by RMB 100 billion (USD 13 billion) per year.

¶27. (U) In addition, China has yet to establish a nationwide pension system for rural residents. Although pilot pension programs for rural residents and migrant workers exist, they are neither common nor popular. The NPC report attributed this to the fact that most pension benefits are not easily transferable from one jurisdiction to another.

¶28. (U) UNEMPLOYMENT INSURANCE: Local labor bureaus maintain a system of social pools funded jointly by employer (2 percent of wages) and employees (1 percent

of wages). Benefits are based on an employee's seniority and set at a percentage of the local monthly minimum wage. As with pensions, participation is mandatory, but non-compliance is widespread. MOLSS reports that the unemployment insurance system covered 145.3 million workers as of June 2006.

¶29. (U) WORKPLACE INJURY/DISABILITY INSURANCE: Employers pay injury/disability insurance based on the risk level attributed to their industry by the local labor bureau. Disabled workers receive 100 percent reimbursement of medical expenses from the insurance fund, and 100 percent of total wages for up to 18 months. MOLSS reports that the workplace injury/disability insurance system covered 89.54 million workers as of June 2006.

¶30. (U) MATERNITY BENEFITS: Benefits cover full salaries for the required period of maternity leave, paid for through a social pool funded by employees alone. Many localities in China have not yet set up maternity benefit systems. MOLSS reports that the maternity benefit system covered 59.6 million workers as of June 2006.

¶31. (SBU) The inadequate social safety net profoundly affects the personal welfare of the average Chinese citizen. Rural residents have virtually no publicly-funded safety net, and only a portion of the urban population is covered. Private sector insurance is highly underdeveloped. The lack of safety nets compels many Chinese to save to manage rising health costs, finance education and provide for their own retirement. China's savings rate in 2005 was an extraordinary 51.8 percent of GDP. This high level of savings contributes to China's current account surplus, and thus to China's trade surplus. A meaningful reform of the social safety net could reduce precautionary savings, and reduce macroeconomic imbalances that exacerbate China's trade surplus with

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the United States.

Workers Rights and Working Conditions

¶32. (SBU) China's economy appears to be creating jobs for most of the roughly 7 million new workers who enter the labor force and 10 million rural workers who migrate to the cities each year. Wages appear to be rising in some parts of the country. Nevertheless, incidents of worker discontent are frequent, whether measured by the roughly 300,000 labor disputes reported by the All China Federation of Trade Unions in 2005, or by the large (but unknown) number of (often unreported) strikes and protests. Workers lack legitimate channels through which to seek timely resolution of grievances. In the vast majority of labor disputes workers seek nothing more than what they are minimally entitled to under the law or their labor contracts. As indicated by the NPC report, the Chinese Government is well aware of the problems. It has been slow to address them, however, because doing so requires tackling governance/rule-of-law issues fundamental to China's decentralized, single-Party system.

¶33. (SBU) FREEDOM OF ASSOCIATION: China does not recognize freedom of association, despite having ratified the 1998 ILO Convention on Fundamental Rights at Work. The ACFTU, a "mass movement" arm of the Communist Party is the only union recognized in China. Workers who attempt to form independent unions or associations, or who simply demonstrate against legitimate grievances risk imprisonment. The ACFTU

has significant power under the Labor Law, but is seen by most observers as, at best, a social organization, and, at worst, an advocate for employer interests. In a handful of exceptional cases, ACFTU unions have freely elected their own leaders in individual enterprises. Chinese academics are working with the ACFTU to explore ways the union can modestly increase its role in protecting workers' rights, e.g., by representing workers in court.

134. (SBU) COLLECTIVE BARGAINING: True collective bargaining does not take place in China. Although not prohibited by the Labor Law, there is, in practice, no mechanism for workers to negotiate with employers as a unit, except through the ACFTU. Collective bargaining in China generally consists of an employer and a pro-employer ACFTU union signing an off-the-shelf model collective contract. Such contracts rarely cover more than wage provisions. Although the Government has called for increased use of collective contracts, there is no indication that either the Chinese Government or the ACFTU seeks to move toward setting wages and other terms of employment through actual negotiation. The subject of whether wages in China are freely set via collective bargaining has been discussed in the U.S.-China Joint Committee on Commerce and Trade (JCCT) in connection with China's request to be treated under USG trade regulations as a market economy.

135. (SBU) FORCED LABOR: Chinese law prohibits forced labor, and authorities have arrested employers for trapping workers at labor sites. However, forced labor is part of the Chinese administrative detention system. The Public Security Bureau (police) can sentence certain offenders to periods of "reeducation through labor" without judicial review. The ILO, with USG funding, is working with China on legislative changes necessary to ratify the forced labor ILO Conventions 29 and 105. Since late 2004, the ILO's Special Action Program to Combat Forced Labor has also

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been working with MOLSS to address detection and prosecution of human trafficking cases. In 2005, China cooperated with the U.S. Prison Labor Task Force to resolve several allegations of prison labor products being exported to the United States. In each case, visits to Chinese prisons uncovered no evidence that the goods in question were produced there.

136. (U) CHILD LABOR: Despite reports from some outside observers that child labor is on the rise in China, there is no publicly available data on which to judge. The Labor Law prohibits employment of workers under 16, and provides special protections for workers between 16 and 18. The ILO reports that the percentage of working children is low in China, but that reports of child labor are relatively prevalent in the garment, footwear, toy, firecracker and food processing industries, as well in catering and "entertainment" services. Isolated labor shortages in industrialized regions potentially increase demand for child labor. The Chinese Government has intensified efforts to combat child labor.

137. (U) One problem which has received much publicity in the past two years is the recruitment of underage students to work in factories on "work-study" programs. A recent case involved an alleged arrangement between a teacher, a labor contractor, and a factory manager to supply 10-14 year old students to peel grapes in a cannery in Ningbo, Zhejiang Province, during summer vacation. The teacher and labor contractor allegedly kept a portion of the children's wages, and are currently under investigation.

¶38. (U) A May 2006 report on Child Labor issued by "China Labor Bulletin" (a Hong Kong NGO) noted that Chinese Government efforts to combat child labor focus on the demand side (by prosecuting employers), but do not adequately address the supply side. Many poor families willfully encourage their teenage children to leave school to work at age 14 or 15 because they do not have the money to pay for continued schooling, or because they see no benefit in completing a high school curriculum which is geared toward preparation for college entrance exams.

¶39. (SBU) DISCRIMINATION IN EMPLOYMENT: The most severe form of discrimination in employment continues to be the household registration (hukou) system, which effectively brands Chinese citizens at birth as rural or urban residents, based on their mother's status. Although most regulations restricting internal migration have been abolished, Chinese citizens cannot change their hukou place of residence without (rarely granted) government approval. As a result, hundreds of millions of Chinese rural residents working in urban areas face obstacles gaining access to social welfare insurance, care in public clinics and hospitals, or public education for their children. The ILO estimates that there are some 22 million children of migrant workers left behind in rural areas. Local regulations in some jurisdictions restrict also employers to hiring only people with local hukous.

¶40. (SBU) The hukou system creates significant hardship for employees and employers alike, effectively breaking China into numerous separate labor markets, while at the same time making migrant workers of all skill levels and easily exploited second class of citizens in the towns and cities where they work. Under instructions from the Central Government, provincial and sub-provincial governments are experimenting with various means to de-link hukou status from access to benefits, but the Central

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Government remains committed to maintaining the system, as it prevents uncontrolled rural-urban migration. Chinese labor experts believe serious reform of the hukou system will not take place until after the Government has established a unified social welfare insurance system that covers both urban and rural residents, and an anti-discrimination law that addresses discrimination against rural people.

¶41. (U) Chinese laws prohibit discrimination in employment and occupation against women and ethnic minorities. Some complaints of discrimination, including institutionalized discrimination, are well-founded, such as local governments' preference for using Han Chinese contractors for construction projects in ethnic minority areas. Numerous studies by Chinese academics also highlight various forms of discrimination that are not illegal. These include widespread use of height or physical appearance criteria in hiring.

¶42. (SBU) China ratified ILO convention 111 on Discrimination in Employment and Occupation on January 12, 2006. MOLSS officials said the Ministry hopes to use the ratification to force legislative and regulatory action to better combat discrimination in employment. Establishing a definition of "discrimination" will be the first step. This presents an opportunity for Chinese academics and public interest groups to press for further relaxation of the hukou system.

¶43. (SBU) ACCEPTABLE CONDITIONS OF WORK: Although wages appear to be rising in China, there has been little improvement in working conditions in the past two years. The AFL-CIO, the ICFTU, the Congressional-Executive Committee and China and other observers have commented on this lack of progress in great detail (and with varying degrees of spin). Perhaps the most credible testament to the lack of progress, however, is the NPC's well-researched "Report on Implementation of the PRC Labor Law." The report included the following findings (Embassy can provide a more detailed unofficial translation of the report):

-- The ratio of workers with signed labor contracts is low, duration of labor contracts is short, and the contents of labor contracts do not conform to standards.

-- The minimum wage guarantee system is not fully implemented, wage arrears continue to occur, and there is no regular mechanism for increasing wages.

-- Excessive overtime is common and working conditions are substandard.

-- Most workers in private enterprises and sole-proprietorships do not participate (in social welfare insurance programs) and the vast majority of migrant workers have trouble participating in the systems in their present form.

-- Labor inspection agencies do not have adequate resources, their methods are weak and their investigations of, and sanctions for illegal behavior lack force.

Legislative developments

¶44. (U) There has been no new labor legislation since 2004, but MOLSS it would place priority on four pieces of draft legislation in 2006. The NPC published a draft Labor Contract Law in March 2006 for

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public comment. There was a large response, including from the American business community. Discussion of controversial issues continues, including the role of labor in business decisions and tightened restrictions on labor contracting. A draft Employment Law will debut for public discussion in late August. A draft Labor Dispute Law and Social Insurance Law have not yet been published. A Bankruptcy Law passed on August 27, 2006, that makes wage and social insurance contribution arrears senior to other debts of bankrupt enterprises. This provision is considered a victory for the ACFTU, whose influence overcame resistance from the People's Bank of China, which noted that the bankruptcy laws of other countries emphasize debts to banks and other creditors.

BIOGRAPHY OF TIAN CHENGPING

¶45. (SBU) Tian Chengping was appointed Minister of Labor and Social Security on July 1, 2005. He has actively promoted labor market and social insurance reforms, and welcomes international dialogue. Tian was a university classmate of Chinese President Hu Jintao. He is a member of the Chinese Communist Party (CCP) Central Committee.

¶46. (U) Tian's previous positions were: Chairman of the Shanxi Provincial Legislature Standing Committee (2003-2006), Secretary of the Shanxi Province CCP Provincial Committee (1999-2003), Chairman of the Qinghai Province Provincial Legislature Standing

Committee (1997-1999), Acting Governor, then Governor of Qinghai Province (1992-1997), Secretary of the Beijing Xicheng District CCP Committee (1984-1992), Deputy Party Secretary at the Qianjin Chemical Workings, Beijing, (1974-1983), and Secretary of the Communist Youth League of the Beijing General Petrochemical Works (1973-1974).

¶47. (U) Tian is a native of Daming, Hebei Province, and was born in 1945. He joined the Communist Party of China (CPC) in 1964 and graduated from the Department of Civil Architecture of Qinghua University in 1968.

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